

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Rolf M. Flugel et al.

Application No.: 09/868,502

Filing Date: February 7, 2002

Title: FOAMY VIRUS VECTORS FOR EXPRESSING FOREIGN GENES IN MAMMALS AND THE USE THEREOF

Group Art Unit: 1648

Examiner: Myron G. Hill

Confirmation No.: 1264

AMENDMENT/REPLY TRANSMITTAL LETTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Enclosed is a reply for the above-identified patent application.

☒ A Petition for Extension of Time is also enclosed.

☐ Terminal Disclaimer(s) and the ☐ \$65.00 (2814) ☐ \$130.00 (1814) fee per Disclaimer due under 37 C.F.R. § 1.20(d) are also enclosed.

☒ Also enclosed is/are Notice of Appeal: Deposit on Biological Deposit.

☒ Small entity status is hereby claimed.

☐ Applicant(s) requests continued examination under 37 C.F.R. § 1.114 and enclose the ☐ \$395.00 (2801) ☐ \$790.00 (1801) fee due under 37 C.F.R. § 1.17(e).

☐ Applicant(s) requests that any previously unentered after final amendments not be entered. Continued examination is requested based on the enclosed documents identified above.

☐ Applicant(s) previously submitted \_\_\_\_\_  
on \_\_\_\_\_,  
for which continued examination is requested.

☐ Applicant(s) requests suspension of action by the Office until at least \_\_\_\_\_, which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R. § 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.

☐ A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (1809/2809) is also enclosed.

- ☐ No additional claim fee is required.
- ☐ An additional claim fee is required, and is calculated as shown below.

AMENDED CLAIMS					
	No. of Claims	Highest No. of Claims Previously Paid For	Extra Claims	Rate	Additional Fee
Total Claims	23	MINUS 20 =	3	x \$50.00 (1202) =	\$ 150.00
Independent Claims	2	MINUS 3 =	0	x \$200.00 (1201) =	\$ 0.00
If Amendment adds multiple dependent claims, add \$360.00 (1203)					
Total Claim Amendment Fee					\$ 150.00
<input checked="" type="checkbox"/> Small Entity Status claimed - subtract 50% of Total Claim Amendment Fee					\$ 75.00
<b>TOTAL ADDITIONAL CLAIM FEE DUE FOR THIS AMENDMENT</b>					<b>\$ 75.00</b>

- ☒ A check in the amount of \$ 75.00 is enclosed for the fee due.
- ☐ Charge \_\_\_\_\_ to Deposit Account No. 02-4800.
- ☐ Charge \_\_\_\_\_ to credit card. Form PTO-2038 is attached.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

Date: July 26, 2005

By



Deborah H. Yellin  
Registration No. 45,904

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Patent Application of )

Rolf M. Flugel et al. )

Application No.: 09/868,502 )

Filed: February 7, 2002 )

For: FOAMY VIRUS VECTORS FOR )  
EXPRESSING FOREIGN GENES IN )  
MAMMALS AND THE USE )  
THEREOF )

Group Art Unit: 1648

Examiner: Myron G. Hill

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DECLARATION ON BIOLOGICAL DEPOSIT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Teresa Stanek Rea declare as follows:

1. The hybridoma cell line, referenced in the above-captioned patent application as pFeFV-7 (Accession No. DSM 12514), was deposited with the DSMZ-Deutsche Sammlung Von Mikroorganismen und Zellkulturen GmbH, Braunschweig on November 11, 1998 as a permanent deposit and will be made available to the public in accordance with the regulations set forth at 37 C.F.R. § 1.806. A copy of the receipt document reciting the terms of deposit is attached hereto.

2. It is further declared that the applicants acknowledge their duty to remove all restrictions on the dissemination of the deposited cell line upon the issue of a patent arising from the present application. The restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent. The applicants have accepted the responsibility to replace the cell line if the deposit with the DSMZ should die or be destroyed and have paid the fee for the patent-related deposit services.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the instant application or any patent issuing thereon.

Date: July 26, 2005

Deborah Yellin  
Reg. No. 45,904 for  
Teresa Stanek Rea  
Reg. No. 30,427

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE




INTERNATIONAL FORM

Deutsches  
Krebsforschungszentrum  
Angewandte Tumorstudiologie  
Im Neuenheimer Feld 242  
69009 Heidelberg

VIABILITY STATEMENT

issued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM
Name: Deutsches Krebsforschungszentrum Address: Angewandte Tumorstudiologie Im Neuenheimer Feld 242 69009 Heidelberg	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: DSM 12514  Date of the deposit or the transfer <sup>1</sup> : 1998-11-23
III. VIABILITY STATEMENT	
The viability of the microorganism identified under II above was tested on 1998-11-24 <sup>2</sup> . On that date, the said microorganism was  (X) <sup>3</sup> viable  ( ) <sup>3</sup> no longer viable	
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST HAS BEEN PERFORMED <sup>4</sup>	
V. INTERNATIONAL DEPOSITARY AUTHORITY	
Name: DSMZ-DEUTSCHE SAMMLUNG VON MIKROORGANISMEN UND ZELLKULTUREN GmbH  Address: Mascheroder Weg 1b D-38124 Braunschweig	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):   Date: 1998-11-25


- <sup>1</sup> Indicate the date of original deposit or, where a new deposit or a transfer has been made, the most recent relevant date (date of the new deposit or date of the transfer).  
<sup>2</sup> In the cases referred to in Rule 10.2(a) (ii) and (iii), refer to the most recent viability test.  
<sup>3</sup> Mark with a cross the applicable box.  
<sup>4</sup> Fill in if the information has been requested and if the results of the test were negative.

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

Deutsches  
Krebsforschungszentrum  
Angewandte Tumorstudiologie  
Im Neuenheimer Feld 242  
69009 Heidelberg

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

<b>I. IDENTIFICATION OF THE MICROORGANISM</b>	
Identification reference given by the DEPOSITOR:  pFeFV-7	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  DSM 12514
<b>II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION</b>	
The microorganism identified under I. above was accompanied by:  <div style="margin-left: 40px;"><input checked="" type="checkbox"/> a scientific description <input type="checkbox"/> a proposed taxonomic designation</div> (Mark with a cross where applicable).	
<b>III. RECEIPT AND ACCEPTANCE</b>	
This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on 1998-11-23 (Date of the original deposit) <sup>1</sup> .	
<b>IV. RECEIPT OF REQUEST FOR CONVERSION</b>	
The microorganism identified under I above was received by this International Depositary Authority on (date of original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion).	
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>	
Name: DSMZ-DEUTSCHE SAMMLUNG VON MIKROORGANISMEN UND ZELLKULTUREN GmbH  Address: Mascheroder Weg 1b D-38124 Braunschweig	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):  <div style="text-align: center;"> Date: 1998-11-25</div>

<sup>1</sup> Where Rule 6.4 (d) applies, such date is the date on which the status of international depositary authority was acquired.